

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT PENNSYLVANIA**

VALUE DRUG COMPANY, RDC Liquidating Trust by and through its trustee, Advisory Trust Group LLC, MLI Rx LLC, AmerisourceBergen Corporation, AmerisourceBergen Drug Corporation, H.D. Smith, LLC, J.M. Blanco, Inc., Valley Wholesale Drug Co., LLC, Cardinal Health, Inc., Cardinal Health 110 LLC, Cardinal Health P.R. 120, Inc., McKesson Corporation, Morris & Dickson Co., L.L.C., Burlington Drug Company, Inc., Dakota Drug, Inc., Louisiana Wholesale Drug Company, Inc., North Carolina Mutual Wholesale Drug Company, Prescription Supply, Inc., J M Smith Corporation d/b/a Smith Drug Company,

Plaintiffs,

v.

TAKEDA PHARMACEUTICALS U.S.A., INC.,  
WATSON LABORATORIES, INC., TEVA  
PHARMACEUTICAL INDUSTRIES LTD.,  
TEVA PHARMACEUTICALS USA, INC., AND  
AMNEAL PHARMACEUTICALS LLC,

Defendants.

Hon. Mark. A. Kearney

Civil Action No. 21-CV-3500-MAK

**JOINT TRIAL STIPULATION**

**A. Opening Demonstratives**

1. The parties will exchange any demonstratives they plan to use during opening statements by 9 a.m. ET on September 4, 2023. The parties will exchange objections to opening demonstratives by 12 p.m. ET on September 4, 2023 and will meet and confer by no later than 5 p.m. ET on September 4, 2023. In accord with Judge Kearney's policies as described at the pretrial conference, no exhibits may be used during openings unless (a) those exhibits have been shared with all other parties as part of the exchange of demonstratives, and (b) there is no objection by

any party. Any objections to opening slides that cannot be resolved shall be raised by the parties jointly with the Court before trial commences on the September 5, 2023.

2. The parties acknowledge that during closing arguments, and while examining a witness, counsel may wish to call-out, expand or focus on an excerpt of, highlight or mark (*e.g.*, with underlining, circles, arrows, etc.) trial exhibits or prior testimony. The parties agree that provided no words or images are added to any words and images native to the trial exhibit or prior testimony, such call-out, expansion, or mark-up shall not be deemed a visual, graphic, or demonstrative requiring disclosure pursuant to the terms of this Stipulation. For example and without limitation, if counsel for a party wishes to focus a witness's and/or the jury's attention on Paragraph 2 on Page 2 of Joint Trial Exhibit "X" by expanding and highlighting such paragraph on screens visible in the courtroom, whether on a pre-prepared slide or in real-time with a trial technician, that exercise will not constitute a demonstrative that should have been previously disclosed. In other words, a demonstrative that pre-marks a document call-out, expansion, or mark-up (limited as set forth above) in lieu of having a trial technician do the same live, need not be disclosed (notwithstanding that it has been prepared in advance). In contrast, for example and without limitation, if counsel for either party prepares a slide in advance of testimony that contains a call out of Paragraph 2, Page 2 of Joint Trial Exhibit "X" as well as a narrative header that is not native to that exhibit (no matter how few or neutral the words/images may be)—other than simply noting the applicable Trial Exhibit number for the document—that slide would constitute a demonstrative requiring advance disclosure.

**B. Disclosure of Trial Witness Order.**

3. The parties agree to disclose their anticipated witness order (live and by deposition) to the other party by no later than 9:00 p.m. ET on the second calendar day preceding the testimony. For example, if the first witness will be called on Tuesday, September 5, the witnesses for that day

would be disclosed by 9:00 p.m. ET on Sunday, September 3. The parties further agree that due to the uncertainty of projected witness timing, previously finalized deposition video may at times be played with less notice than otherwise required by this paragraph.

**C. Direct Examination Demonstratives.**

4. The parties agree to exchange trial demonstratives for use during direct testimony by 6:00 pm ET the night prior to when the witness will testify. For example, if a demonstrative will be used with a witness set to testify on Monday September 11, the party presenting the demonstrative will disclose the demonstrative by 6:00 pm on Sunday September 10.

5. The parties shall serve objections to any demonstrative by 8:00 p.m. ET the night they receive the demonstrative. The parties shall meet-and-confer by 9:00 p.m. ET on the same night to resolve any objections to those demonstratives. For example, for a demonstrative to be used on Wednesday, September 6, it will be disclosed (with the name of the witness and demonstrative exhibit number) by 6:00 p.m. ET on Tuesday, September 5. Objections, if any, will be served by 8:00 p.m. ET on Tuesday, September 5, and the parties shall meet-and confer by 9:00 p.m. ET on Tuesday, September 5 to resolve any objections.

6. Any objection to the use of the disclosed demonstrative that cannot be resolved shall be raised with the Court at the Court's convenience before trial resumes on the day of the anticipated use.

**D. Party Lists for Disclosures of Information and Demonstratives**

7. Disclosure of the information, demonstratives and exhibits discussed above shall be directed to the following via electronic mail:

For Plaintiffs:  ColcrysPlaintiffs@garwingerstein.com pkohn@faruqilaw.com akelly@odrlaw.com	For Takeda:  <a href="mailto:MLValueDrugAntitrust@morganlewis.com">MLValueDrugAntitrust@morganlewis.com</a>  <a href="mailto:steven.reed@morganlewis.com">steven.reed@morganlewis.com</a>	For Amneal and Teva/Watson  devora.allon@kirkland.com michael.bement@kirkland.com
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cfirst@hpcllp.com	<a href="mailto:mike.abernathy@morganlewis.com">mike.abernathy@morganlewis.com</a> <a href="mailto:brendan.fee@morganlewis.com">brendan.fee@morganlewis.com</a> <a href="mailto:margaret.mcgregal@morganlewis.com">margaret.mcgregal@morganlewis.com</a> <a href="mailto:vincent.papa@morganlewis.com">vincent.papa@morganlewis.com</a> <a href="mailto:michael.sikora@morganlewis.com">michael.sikora@morganlewis.com</a>	d.com gilad.bendheim@kirkland.com. patrick.j.gallagher@kirkland.com rj.hernandez@kirkland.com jhileman@kirkland.com andrew.mccarty@kirkland.com hector.murillo@kirkland.com kevin.neylan@kirkland.com jacob.rae@kirkland.com; alexandra.russell@kirkland.com allie.wendell@kirkland.com; madeleine.xu@kirkland.com
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#### **E. Playing of Deposition Designations**

8. When designations are offered, all admissible designations and counter-designation excerpts will be presented in the sequence in which the testimony was originally given. When playing video, no adjustments to the original recording will be permitted, other than the removal of “dead air” including the speed of the recording, shall be made, other than to remove objections stated during the deposition. To the extent such designations and counter-designations are played in open court, each side will be charged for the time taken to play its respective designations or counter-designations.

DATED: September 3, 2023

Respectfully submitted,

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